

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM DEFORTE,)	
)	
Plaintiff,)	Civil Action No. 15-171
)	
v.)	Judge Cathy Bissoon
)	
THE TOWNSHIP OF PINE, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

I. MEMORANDUM

For the reasons stated below, the Township of Pine and Clyde Moore’s (“Defendants”) Partial Motion to Dismiss (Doc. 2) will be GRANTED.

BACKGROUND

William DeForte (“Plaintiff”) alleges that he was hired by the Pine Township Police Department as a Police Commander, with a starting wage of \$15.00 an hour, in or around September of 2012. Compl. (Doc. 1, Ex. A) ¶¶ 11, 12. On or around October 31, 2012, Plaintiff was informed that the Pine Township Police Department had “met in an unlawful executive session and voted to disband the police department.” *Id.* at ¶ 13. Following the disbandment of the police department, Plaintiff contends that he was not permitted to retrieve his personal belongings located therein, including, *inter alia*, a “COLT” knife, a “GTI-drive” mountain bike, a bayonet, approximately 15 AR-15 magazines, a 511 jacket, two military style bags, a filing cabinet, a metal gun cabinet, a stainless steel refrigerator, and two cork boards. *Id.* at ¶¶ 15-17.

Plaintiff alleges that Chris Airgood, who had been hired by Pine Township and promoted to Chief of Police, was permitted to retrieve his own personal belongings from the department.

Id. at ¶¶ 10, 18. Plaintiff states that although Mr. Airgood intended to retrieve Plaintiff's property as well as his own, Supervisor Clyde Moore claimed that Plaintiff's property belonged to the Township and prevented him from doing so. Id. at ¶¶ 19-20. When Mr. Airgood noticed that both his own and Plaintiff's personal lockers¹ had been broken into, he allegedly questioned Mr. Moore about this. Id. at ¶¶ 21, 23. Plaintiff contends that Mr. Moore acknowledged that he and Worthington Borough Mayor Kevin Feeney had broken into the lockers. Id. Plaintiff alleges that, at a hearing in the Court of Common Pleas of Armstrong County, Mayor Feeney testified that he and Mr. Moore entered the Pine Township Police Department, cut the lock off of Plaintiff's personal locker, providing both Mr. Moore and Mayor Feeney with access to its contents. Id. at ¶¶ 26, 27.

Plaintiff filed suit alleging six counts: 1) § 1983 deprivation of due process and unlawful search and seizure of property; 2) conspiracy to commit common law invasion of privacy; 3) violation of procedural due process; 4) conspiracy to violate Plaintiff's right to procedural due process/conspiracy to violate the Borough Code; 5) violation of the Pennsylvania Sunshine Law; and 6) unlawful conversion of property. Id. at ¶¶ 31-70. This case was removed from the Court of Common Pleas of Armstrong County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania on February 9, 2015, under federal question jurisdiction.

Notice of Removal (Doc. 1).

Defendants Township of Pine and Clyde Moore move to dismiss Plaintiff's Counts II–V pursuant to Rule 12(b)(6) for failure to state a claim. Defs.' Mot. to Dismiss (Doc. 2) at 3. Plaintiff consents to the dismissal of Counts II–V, which leaves Counts I and VI as alleged in the

¹ Plaintiff alleges that he owned his locker, which was not the property of Pine Township. Id. at ¶ 22.

Complaint. Pl.'s Resp. (Doc. 6) at ¶¶ 17-21. As Plaintiff consents to the dismissal of all counts Defendants seek to dismiss, Defendants' Partial Motion to Dismiss will be granted.

I. ORDER

For the reasons stated above, Defendants Township of Pine and Clyde Moore's Partial Motion to Dismiss (Doc. 2) is **GRANTED**. Counts II, III, IV and V hereby are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

July 13, 2015

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record